

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

MICHAEL DAVID LEE,

Plaintiff,

v.

**COMMISSIONER FOR PATENTS,
UNITE STATES PATENT AND
TRADEMARK OFFICE,**

Defendant.

Civil Action No. 09-1214 (JDB)

ORDER

Michael David Lee, proceeding pro se, has filed a complaint against the United States Commissioner for Patents. He asks this Court to overturn an apparent decision by the United States Patent and Trademark Office denying him renewal of his patent for the "Original Jake and the Pancake Game." See Compl. at p. 2-3. Less than two months after filing his complaint, and before he served a summons on the Commissioner for Patents, Lee filed what he termed a "Motion for Summary Judgment." See Mot. for Summ. J. [Docket Entry 2]. In it, he simply restated the relief he requested in his complaint; he provided no factual or legal argument in support of his request. See id. at 1. Accordingly, the Court concludes that Lee's motion is best characterized as a motion for default judgment.¹ Because Lee's motion was filed before he perfected service on the Commissioner of Patents, it is improper -- it is "axiomatic that service of process must be effective under the Federal Rules of Civil Procedure before a default or a default

¹ Lee's motion does not meet the requirements of either the Federal Rules of Civil Procedure or the Local Civil Rules for a summary judgment motion, and hence must be denied for that reason as well.

judgment may be entered against a defendant." Md. State Fireman's Ass'n v. Chaves, 166 F.R.D. 353, 354 (D. Md. 1996). Therefore, upon consideration of [2] Lee's motion for summary (or default) judgment, and the entire record herein, it is hereby **ORDERED** that the motion is **DENIED**.

SO ORDERED.

/s/
JOHN D. BATES
United States District Judge

Date: December 30, 2009

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